

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Revised 07/07 WDNV

Marilyn Cornelius

21 CV 511

Jury Trial Demanded: Yes X No

Name(s) of Plaintiff or Plaintiffs

Thalmar -VS-

DISCRIMINATION COMPLAINT

-CV-



Name of Defendant or Defendants

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (check only those that apply):

✓ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

✓ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

____ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).



New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: Post office Box 692
Buffalo, New York 14205

My telephone number is: 716-335-1406

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: Thalmant

Number of employees: over 500

Address: 702 SW 8th Street
Bentonville, AR 72712

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: Thalmant

Address: 2500 Thalden Avenue
Chicktown, New York 14225

CLAIMS

4. I was first employed by the defendant on (date): 7/2018

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: _____

October 2018

6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): _____

Nov, Dec 2018, March 2018, Feb + Jan 2018
Nov 2019, January 2020, through Oct 2020
Continuously 2021

7. I believe that the defendant(s)

a. ☒ Are still committing these acts against me.

b. ☐ Are not still committing these acts against me.

(Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) 3/2 - 3/22/2021

8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)

The date when I filed a complaint with the New York State Division of Human Rights is

____ (estimate the date, if necessary)

I filed that complaint in (identify the city and state): _____

The Complaint Number was: _____

9. The New York State Human Rights Commission did _____ /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: 3/18/2021

11. The Equal Employment Opportunity Commission did _____ /did not _____ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: 4/1/2021. (NOTE: If it

did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. ☐ Failure to provide me with reasonable accommodations to the application process
- b. ☐ Failure to employ me
- c. ☐ Termination of my employment
- d. ☒ Failure to promote me
- e. ☐ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. ☒ Harassment on the basis of my sex
- g. ☒ Harassment on the basis of unequal terms and conditions of my employment
- h. ☒ Retaliation because I complained about discrimination or harassment directed toward me
- i. ☐ Retaliation because I complained about discrimination or harassment directed toward others
- j. ☐ Other actions (please describe) _____

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

- a. ☒ Race
- b. ☒ Color
- c. ☒ Sex
- d. ☐ Religion
- e. ☐ National Origin
- f. ☐ Sexual Harassment
- g. ☒ Age 9/27/59 Date of birth
- h. ☐ Disability
Are you incorrectly perceived as being disabled by your employer?
☐ yes ☐ no

15. I believe that I was ☒ /was not ☐ **intentionally** discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are X is not/are not _____ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: _____ and why the defendant(s) stopped committing these acts against you: _____)

17. **A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim.** (NOTE: You **must** attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (check one):
 _____ **has not** issued a Right to sue letter
X **has** issued a Right to sue letter, which I received on 4/1/2021

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

also
 Please see the Attached.
 In Addition to the details included in the
 (from the) Formal Charges of Discrimination
 that I submitted to the EEOC.
 Please note from the onset of my tenure
 with Tralmat I have not been afforded
 the same opportunities as other managers.
 I was not given the liberty to decide which
 associates would ~~work~~ should be full
 department vacancies. I was only able to hire 1
 Associate. I was given a negative performance
 evaluation as a pretext to force me to ~~leave~~ take a lower
 position or terminate my employment.

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct
 _____ 60 days or more have elapsed X less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on _____)

19. Please also see the attached.

In addition to the details included in the Formal Charge Of Discrimination that I submitted to the EEOC, please note that from the onset of my tenure with Walmart I have not been afforded the same opportunities as other Assistant Managers, that were not of my race, sex, and age. At times Support Managers which were my subordinates were not held accountable for the things that I was reprimanded, neither were many of the Assistant Store Managers.

I was not given the liberty to decide which associates should fill department vacancies, I was only allowed to hire 2 associates; 1 while at the Amherst location and 1 while at the Cheektowaga location.

In March 2021, I was given a negative performance evaluation as a pretext to force me to take a lower position or terminate my employment.

July 2020, in preparation for inventory All Assistant Store Managers, Co-Managers and the Store Manager were to have their picture taken and posted on the wall outside of the office. Every Managers picture was posted except mine. Many associates and Managers knew that my picture was the only one excluded which sent a subliminal message that I was not accepted and respected by the Store Manager and my direct manager Mornalisa, as the other Managers were, which cause me to be embarrassed and humiliated. Some associates behaved in ways equivalent to that of some management, disrespectfully. Which I have never witnessed any other manager, treated as I, from Store Manager Chris Knowlin or Mornalisa Ferrette or any subordinate.

While employed at the Amherst store, I complained to store manager Rhonda, Co-Manager Eric, Derrick, Store Manager Chris L. numerous times regarding disrespectful and discriminatory treatment from Support Manager Syed, Assistant Managers James, Shana, Hanna and Co-Manager Lori, my complaints and concerns were ignored.

Managers have engaged in inappropriate intimate relationships and conversations with subordinates, instead of being reprimanded they have been promoted.

22. The date on which I first asked my employer for reasonable accommodation of my disability is _____
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: _____
24. The reasonable accommodation provided to me by my employer were ____/were not ____ effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: 4/8/2021


Plaintiff's Signature

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

846-2020-28352

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Ms. Marilyn Cornelius

Home Phone (Incl. Area Code)

(716) 335-1406

Date of Birth

1959

Street Address

City, State and ZIP Code

Po Box 692, Buffalo, NY 14205

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WAL MART Corporation

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(479) 273-4000

Street Address

City, State and ZIP Code

702 SW 8th Street, Bentonville, Arkansas 72716

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☒ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**07-02-2018****10-10-2020**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I am a female African-American (Black). I am 61 years old. Because of this I have been discriminated against.

I began my employment in August 2018 as an Assistant Store Manager.

I was the oldest assistant manager at the location.

From the start of my employment I was subject to a hostile work environment. I was spoken to in an abrasive manner by subordinates and management. I complained about the treatment I received, but it continued.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

CHARGE OF DISCRIMINATION

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Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

846-2020-28352

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

From the start of my employment, I was denied equal terms, conditions and privileges of employment afforded younger, non-Black and male employees.

In November 2019, I was transferred to the Cheektowaga, NY location. I was not given a reason for the transfer. Initially, when I returned from LOA, Store Manager Chris Lazarou told me if Assistant Manager Tadveena did not return from her LOA, I would remain at the Assistant Manager of Housewares, Paper/Chem, Pets and HBA, Tadveena had not returned, I was 1 of 3 Black Managers, we were all transferred to different stores at different times. I believe that I was transferred because the company was engaging in a course of conduct designed to end my employment.

Again, I was the oldest Assistant Manager at the new location. I was again treated badly. Again, I complained, but no action was taken to correct the hostile work environment. October 10 2020 (Yellow) and on Monday, November 9, (Orange) for a conversation that occurred on November 2, 2020.

At no time during either of the initial conversations was I told by either Christopher Knowlin Sr. (Store Manager) or Mornalisa Ferrette (Store Lead) that the conversations were or would be considered a form of disciplinary action, which would have been executed during the time of the initial conversations.

I believe both actions were retaliation as direct result of being on an approved FMLA short term absence and communicating to Store Manager and Store Lead that the actions taken against me were in violation of Federal FMLA laws and because I also complained about discriminatory treatment.

I also believe that the actions are a pretext to either forcing me to resign or fire me because of their fabricating and distorting actual facts.

The facts are:

Saturday 10.10.20:

I returned to work from an approved FMLA Leave, according to the leave administrators my position was protected through Tuesday, October 13, 2020.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

Page 2 of 7

CHARGE OF DISCRIMINATION

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☐ FEPA
☒ EEOC

846-2020-28352

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

I was placed on a yellow disciplinary action, which was drafted on 9.17.20, while I was on approved short term FMLA. The initial conversation took place prior to my physicians deeming it necessary to take me off work.

(I asked Store Manager Christopher Knowlin, Sr to rescind the disciplinary action. He said he would not and he told me to open door it, I contacted Market Management and was directed to the Associates Line as well.)

I was told I would be working overnights beginning Monday, October 19, 2020. (A shift I haven't worked at all during my tenure as a Walmart Assistant Store Manager) I was as also forced to work with Miguel Martinez (I'd previously communicated to Store Lead that on July 27, Miguel had taken equipment I had signed out to use, from a topstock cart without my knowledge, (Confirmed by reviewing AP video tape with associate Mamoud) he hid it in the office, at that time she said she saw Miguel with a picture of me. I asked her why did he have a picture of me, and I told her I was not comfortable with knowing that. She said she was going to talk with Miguel and get back to me which to this day she hasn't followed up with me.

Sunday, October 25, 2020

After being on overnights for only 3 days, I was left alone to run the entire overnight process.

When I arrived in addition to the freight on the grocery side of the store there was an enormous amount of unorganized freight left in the Hardware Aisles, and lined up across the back walls of hardware, no support manager was staffed. There weren't any notes left for me by either Store Manager, or Store Lead, which is done with Miguel and historically areas of focus are communicated via, notes, email, text or phone call. I received nothing, therefore I made the decision to do what I knew to do which was work the live freight.

When Lisa arrived the next morning, she asked me, if GM freight had been worked I told her that the live freight was and because I didn't have any notes regarding the enormous amount of combination unorganized, overstock and old freight, I had 2 associates pull the freight and neatly place in GM Receiving. I informed Lisa that I had pictures that I could show her but she didn't want to see them.

On November 7th, I showed up for my overnight shift only to find out after I had been there for nearly 2 hours that I was transferred back to the day shift; however neither the Store Manager or Store Lead extended the courtesy to communicate that to me.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

3/18/2021 *David J. Fornelino*

CHARGE OF DISCRIMINATION

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Charge Presented To:

Agency(ies) Charge No(s):



FEPA



EEOC

846-2020-28352**New York State Division Of Human Rights**

and EEOC

State or local Agency, if any

On November 9th I was informed by Store Manager Christopher Knowlin, Sr. that I was being placed on an Orange disciplinary action.

I was reprimanded for conditions that were beyond my control, and have been similar for other overnight managers however, they were not subjected to disciplinary code orange level action.

William Roman, showed a lack of respect for senior level store management, and associates however he was not reprimanded, he was promoted.

Recently, Christopher Knowlin, Sr. sent an email stating that merchandise had not been binned into the trailer(s), had it been stolen Insurance would not reimburse and if it happened again the individual responsible would be disciplined.

There are double standards that are displayed by Store Manager and Store Lead, that have and continue to negatively impact me.

On December 17, 2020 I called Mornalisa Ferrette, direct supervisor, to inform her that I was ill and would be out of work, she told me that I needed to send documentation to Store Manager Christopher Knowlin, which I did.

I returned to work on January 19, 2021, that day numerous associates told me they heard I was sick, one of which told me that she was out with the same thing that I had, I said, really? What was that? She then said you had COVID right?

Wednesday evening January 20, 2021, Miguel Martinez and I were passing one another, when he paused and said welcome back, I said thank you, he then proceeded to ask me "so how was it? I said how was what? He then said Lisa, (Mornalisa Ferrette, Store Lead and my direct supervisor) told him that I had COVID. I didn't respond immediately because I felt violated. I told Miguel that I was shocked that she shared my confidential information with him. Miguel, the said, "oh I I didn't tell anyone."

That evening when I got home from work, I sent a text to Mornalisa Ferrette asking if what Miguel told me was true. She did not respond.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY -- When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

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Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

846-2020-28352

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

Monday, January 25, 2021, I was using the computer in the Personnel office, Lisa entered the office, she said that she got my text message, she was angry because I sent it and because I also copied Miguel on the text message, that's why she didn't respond. She also went on to say that she came in on her vacation day to talk to me, (Her tone and body language made me feel uncomfortable and threatened, therefore I listened) but I didn't come to work. She also asked me if Miguel told me the context in which she told him. Lisa was interrupted by an associate's knock on the door, needing help.

I do not report to Miguel Martinez and the fact the Lisa told him and other managers my personal health related information is a violation of HIPPA. In my humble opinion Lisa's disclosing my protected information was malicious and another attempt to pressure me to resign or respond and/or behave in a manner that will give her the opportunity to terminate my immediately terminate employment.

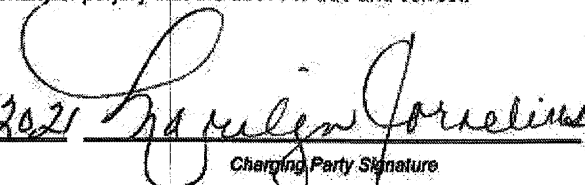
In October 2020, I was issued two warnings. I believe the warnings were pretext for discrimination and retaliation.

March 4, 2021, I received a poor performance evaluation by Chris Knowlin Sr, Store Manager, Mornalis Ferette was also present, the evaluation was a complete fabrication and did not represent the duties that I actually performed and a distortion of the knowledge of the position and processes I've executed while in the role.

Based on the above, I believe that I have been discriminated against because of race, sex and age in violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act and other applicable Federal, state and local anti-discrimination statutes. I further believe that I have been retaliated against in violation of these statutes.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

3/18/2021 
 Date Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

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Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

846-2020-28352

New York State Division Of Human Rights

and EEOC

State or local Agency, if any

x *Ramona Foranellas*

Date

3/18/2021

Charging Party Signature

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

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(month, day, year)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

PLAINTIFF <i>Marilyn Cornelius, Pro Se</i>	COURT CASE NUMBER
DEFENDANT <i>Walmart</i>	TYPE OF PROCESS

SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN <i>Walmart</i>
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <i>702 SW 8th Street, Bentonville, AR 72712</i>

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW <i>Marilyn Cornelius, Pro Se P.O. Box 692 Buffalo, NY 14205</i>	Number of process to be served with this Form 285
	Number of parties to be served in this case
	Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Signature of Attorney other Originator requesting service on behalf of: <i>Marilyn Cornelius, Pro Se</i>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER <i>716-335-1406</i>	DATE <i>4-8-2021</i>
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk	Date
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I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)	Date	Time <input type="checkbox"/> am <input type="checkbox"/> pm
Address (complete only different than shown above)	Signature of U.S. Marshal or Deputy	

Costs shown on attached USMS Cost Sheet >>

REMARKS

EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Marilyn Cornelius**
PO Box 692
Buffalo, NY 14205

From: **Buffalo Local Office**
300 Pearl Street
Suite 450
Buffalo, NY 14202

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2020-28352

Jean E. Mulligan,
Investigator

(716) 431-5013

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age

Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Maureen C. Kielt

Digitally signed by Maureen C. Kielt

Date: 2021.03.19 11:23:46 -04'00'

Enclosures(s)

Maureen Kielt,
Local Office Director

(Date Issued)

cc:

Scott A. Forman
Shareholder
WAL MART STORES INC
c/o Littler Mendelson PC
2301 McGee St Ste 800
Kansas City, MO 64108



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Buffalo Local Office

Pearl Street, Ste. 450
Buffalo, NY 14202

Marilyn Cornelius
PO Box 692
Buffalo, NY 14205

Re: Cornelius v. Wal-Mart
EEOC Charge No. 846-2020-28352

Dear Ms. Cornelius:

The Equal Employment Opportunity Commission ("Commission") has concluded its inquiry/investigation into your allegations of discrimination contained in the above-referenced charge. The Commission has implemented charge prioritization procedures to address the dual problem of our limited resources and growing charge inventory. Under Commission procedures, we focus our resources only on those charges that are most likely to result in findings of violations of the laws we enforce. In accordance with these procedures, the Commission has evaluated your charge based on the evidence provided.

In your charge, you alleged that you were discriminated against by Wal-Mart ("Respondent") because of race, sex and age in violation of Title VII of the Civil Rights Act of 1964 ("Title VII") and the Age Discrimination in Employment Act ("ADEA"), respectively. Specifically, you alleged that you were subject to unequal terms, conditions and privileges of employment afforded others. You alleged that you were issued a poor evaluation and received discipline. You alleged that Respondent's actions were in retaliation for taking leave and for your internal complaints.

Based upon the information provided, the Commission is unable to conclude that the evidence obtained establishes a violation of Title VII or the ADEA. Please be advised, the Commission has completed its processing of this charge and this charge will be dismissed. This does not certify that the Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge. Included with this letter is your "Dismissal and Notice of Rights". Following this dismissal, you may only pursue your claims by filing a lawsuit against the Respondent. Your lawsuit must be filed within 90 days of receipt of this notice, or your right to sue based upon these allegations will be lost.

If you have any further questions, you may contact Investigator Jean E. Mulligan at (716) 431-5013.

Sincerely,

Jean E.

Mulligan Kelt
Director

Maureen Kelt
Enc.

for
Digitally signed by Jean E.
Mulligan for Director Maureen
Kelt
DN: cn=Jean E. Mulligan for
Director Maureen Kelt, o.ou,
email=jean.mulligan@eoc.gov,
c=US
Date: 2021.03.19 09:21:57 -04'00'

Date:

Enclosure with EEOC
Form 161 (11/2020)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope or record of receipt, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was issued to you** (as indicated where the Notice is signed) or the date of the postmark or record of receipt, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed **within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period**.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Мамідух Ронгеліш

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marilyn Cornelius, Kroe

DEFENDANTS

Thermant

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- | | | | |
|----------------------------|---------------------------|---------------------------------------|---|
| <input type="checkbox"/> 1 | U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 | Federal Question
<i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 | U.S. Government Defendant | <input type="checkbox"/> 4 | Diversity
<i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act				
<input type="checkbox"/> 120 Marine			<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))				
<input type="checkbox"/> 130 Miller Act			PROPERTY RIGHTS		<input type="checkbox"/> 400 State Reapportionment				
<input type="checkbox"/> 140 Negotiable Instrument			<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking					
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce					
<input type="checkbox"/> 151 Medicare Act			<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation					
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations					
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits			<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)					
<input type="checkbox"/> 160 Stockholders' Suits			SOCIAL SECURITY		<input type="checkbox"/> 485 Telephone Consumer Protection Act				
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV					
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/Exchange							
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions							
	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts							
	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters							
		<input type="checkbox"/> 895 Freedom of Information Act							
		<input type="checkbox"/> 896 Arbitration							
		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision							
		<input type="checkbox"/> 950 Constitutionality of State Statutes							

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):

Federal Question
Brief description of cause: Employment Discrimination Title VII Civil Rights Law Based on race Age, Sex, Retaliation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 100,000.

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE